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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 130103006-3243-01]

RIN 0648-BC89

Fisheries in the Western Pacific; 5-Year Extension of Moratorium on Harvest of Gold Corals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would extend the region-wide moratorium on the harvest of gold corals in the U.S. Pacific Islands through June 30, 2018. NMFS intends this proposed rule to prevent overfishing and to stimulate research on gold corals.

DATES: Comments must be received by [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0002, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0002](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0002), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- Mail: Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), and will accept attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Lewis Van Fossen, NMFS PIR Sustainable Fisheries, 808-541-1378.

#### SUPPLEMENTARY INFORMATION:

Precious corals (also called deep-sea corals) belong to the class of animals that includes corals, jellyfish, sea anemones, and their relatives. They are harvested for use in high-quality jewelry. Gold corals live in deep water (100-1,500 m) on solid substrates where bottom currents are strong. Precious corals are suspension feeders, thriving in areas swept by strong currents,

and are most abundant on substrates of shell sandstone, limestone, or basaltic rock with a limestone veneer. All precious corals are slow-growing and are characterized by low rates of natural mortality and recruitment.

Unexploited populations are relatively stable, and a wide range of age classes is generally present. This life-history pattern (longevity and many age classes) has two important consequences with respect to exploitation. First, the population response to harvesting is drawn out over many years. Second, because of the great longevity of individuals and the associated slow population turnover rates, a long period of reduced fishing effort is required to restore a stock's ability to produce at the maximum sustainable yield if a stock has been over exploited for several years.

Beds of gold corals (Gerardia spp., Callogorgia gilberti, Narella spp., and Calyptrophora spp.) are found in several locations in the U.S. Exclusive Economic Zone (EEZ) around Hawaii. They likely occur in the EEZ around American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Remote Island Areas (Baker Isl., Howland Isl., Jarvis Isl., Wake Atoll, Johnston Atoll, Kingman Reef, Midway Atoll, and Palmyra Atoll), but their distribution and abundance are unknown in areas beyond Hawaii.

NMFS and the Western Pacific Fishery Management Council (Council) manage precious coral fisheries in the U.S. Pacific Islands under fishery ecosystem plans (FEPs) for American Samoa, Hawaii, the Mariana Archipelago, and the PRIA. The plans and associated Federal regulations require permits and data reporting, and allow harvesting of precious corals only with selective gear (e.g., submersibles, remotely-operated vehicles, or by hand). There are also bed-specific quotas, refuges from fishing, and size limits. The gold coral fishery in the U.S. Pacific Islands is dormant.

In 2008, after researchers presented information suggesting extremely slow growth rates for gold corals, the Council and NMFS established a 5-year moratorium on harvesting gold corals (September 12, 2008, 78 FR 47098). The Council and NMFS established the moratorium in response to research that indicated that reference points for estimating maximum sustainable yield had been overestimated, and that could result in overharvesting gold corals. The moratorium was intended to allow research on gold coral age, growth, and recruitment (the ability to repopulate). The moratorium is scheduled to expire on June 30, 2012.

Past stock assessments of gold corals assumed that colonies had linear growth of 6.60 cm/yr. Research now indicates that gold coral colonies in Hawaii grow at just 0.22 cm/yr, and that

the average colony age is about 950 years, much older than previously estimated. The slow growth and extreme old age of gold coral colonies make them susceptible to overharvesting.

Gold corals may also have previously-unknown habitat requirements--gold corals may depend on bamboo corals to provide required substrate for gold coral larvae. As with other precious corals, gold corals produce tiny free-swimming larvae that, if they settle onto an appropriate substrate, they begin to form a colony. Most precious corals prefer hard substrates like basalt or limestone. NMFS researchers have discovered that, in contrast, gold coral larvae may prefer to settle on bamboo coral colonies, eventually overgrowing them. It is not clear whether gold coral merely covers the host colony, or also consumes its live tissues.

The Council considered the new gold coral life-history information and the implications for gold coral fishery management. At its 155<sup>th</sup> meeting, held from October 29 through November 1, 2012, in Honolulu, the Council recommended that NMFS extend the current moratorium on gold coral harvests for another five years. This will allow NMFS and the Council to conduct further research and develop sustainable management measures for gold corals, specifically the Council's stated goal of developing an appropriate annual catch limit prior to the moratorium expiring in 2018. This proposed rule would extend the

region-wide moratorium on the harvest of gold corals through June 30, 2018. NMFS intends this proposed rule to prevent overfishing and to stimulate research on gold coral life-history that will inform management models and reference points for appropriate gold coral catch limits.

NMFS must receive any public comments on this proposed rule by the close of business on [insert date 30 days after date of publication in the FEDERAL REGISTER], and will not consider late comments.

#### Classification

Pursuant to section 304 (b) (1) (A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the fishery ecosystem plans for American Samoa, the Pacific Remote Island Areas, Hawaii, and the Mariana Islands, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The analysis follows:

The proposed rule would extend the current five-year moratorium on gold coral harvest in the U.S. Pacific Islands for another five years, in light of new information on gold coral growth rates and habitat requirements. The current moratorium is scheduled to expire on June 30, 2013. The proposed rule would extend the harvest moratorium until June 30, 2018.

Any entity possessing a western Pacific precious corals permit would potentially be affected by the proposed action, as those entities would be permitted to harvest or land gold coral, in addition to black, bamboo, pink, and red coral. Only two entities, both based in the state of Hawaii, currently possess a western Pacific precious corals permit

([http://www.fpir.noaa.gov/SFD/SFD\\_permits\\_index.html](http://www.fpir.noaa.gov/SFD/SFD_permits_index.html), accessed: February 22, 2013). NMFS believes that both of these would be considered small entities with annual revenues below \$4 million.

Although NMFS believes that these two entities would be considered small entities, it is unlikely that either of these entities would begin to harvest gold coral in the absence of a moratorium. The western Pacific gold coral fishery had been dormant when the current moratorium went into effect in 2008. Gold coral harvesting had occurred occasionally during the past 50 years. Between 1973 and 1979, a manned submersible was used to selectively harvest a couple thousand kilograms of gold coral from the Makapuu Bed. There has been no gold coral harvest at

the Makapuu Bed since 1979. In 1999-2000, a second entity extracted a small amount of gold coral, along with other deepwater precious corals, from exploratory areas off Kailua-Kona.

Extending the moratorium on gold coral harvests will not likely cause immediate economic impact to entities permitted to harvest gold coral. This fishery had been dormant prior to the current moratorium. Furthermore, this fishery is still characterized by high equipment and operating costs, continued safety concerns and other logistical constraints, and gold coral market prices are not high enough to offset those risks and expenses. Because of these challenges to entities wishing to harvest and land gold coral, interest in this fishery will likely to remain low even without the moratorium. However, extending the moratorium for another five years would ensure that no harvesting of gold coral would occur until 2018. Additional research may better inform future management decisions regarding sustainable harvesting of this resource.

The no action alternative was the only other alternative considered. That alternative would allow the gold coral fishery to open on July 1, 2013. It would have little to no positive immediate impact to the commercial gold coral fishery, as this fishery would likely to remain dormant in the near term. However, there could potentially be negative long-term impacts

in terms of the sustainability of gold corals and in turn, this fishery. These negative impacts would come through the development of future potentially unsustainable management decisions that are made based on incomplete research on gold coral biology.

The proposed rule does not duplicate, overlap, or conflict with other Federal rules and not expected to have significant impact on small entities (as discussed above), organizations or government jurisdictions. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR 665

Administrative practice and procedure, American Samoa, Deep sea coral, Fisheries, Fishing, Guam, Hawaii, Northern Mariana Islands, Precious coral.

Dated: March 21, 2013.

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Alan D. Risenhoover, Director, Office of Sustainable Fisheries,  
performing the functions and duties of the Deputy Assistant Administrator for  
Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 665 is proposed to be amended as follows:

PART 665--FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 665 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Revise § 665.169 to read as follows:

§ 665.169 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2018.

3. Revise § 665.270 to read as follows:

§ 665.270 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2018.

4. Revise § 665.469 to read as follows:

§ 665.469 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2018.

5. Revise § 665.669 to read as follows:

§ 665.669 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2018.

[FR Doc. 2013-06903 Filed 03/25/2013 at 8:45 am;

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